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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,291	04/05/2007	Hiroshi Ichigaya	101539.57884US	4092
23911 7590 05/01/2009 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300				
EXAMINER				
LOFFREDO, JUSTIN E				
ART UNIT		PAPER NUMBER		
3744				
MAIL DATE		DELIVERY MODE		
05/01/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/584,291

**Applicant(s)**

ICHIGAYA, HIROSHI

**Examiner**

JUSTIN LOFFREDO

**Art Unit**

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 April 2007.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-57 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☒ Claim(s) 1-57 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1, drawn to an air-conditioning garment.

Group II, claim(s) 2, drawn to an air-conditioning garment.

Group III, claim(s) 3, 7-50 and 53-57, drawn to an air-conditioning garment.

Group IV, claim(s) 4, drawn to an air-conditioning garment.

Group V, claim(s) 5, 51 and 52, drawn to an air-conditioning garment.

Group VI, claim(s) 6, drawn to an air-conditioning garment.

2. The inventions listed as Groups I-VI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the special technical feature of: an air guiding means capable of covering a predetermined part of a body and guiding air along a surface of the body or an undergarment in a space between the air guiding means and the body or undergarment; one or a plurality of air circulating portions which take air flowing in the space between the air guiding means and the body or undergarment to the outside; one or a plurality of air sending means for forcibly generating a flow of air in the space between the air guiding means and the body or the undergarment; and a power supplying means capable of supplying power to the air sending means; has not been found to be a contribution over the prior art of Elsherif et al. (US Patent No. 5,564,124, col. 3, L 19-30, 50-61; col. 4, L 10-16, 32-35; Figs. 1-3 & 4).

3. Additionally, if Group III is elected, the application contains claims directed to more than one species of the generic invention. These species are deemed to lack

unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Species A: Figures 9A-12B

Species B: Figures 13A-15C

Species C: Figures 16A-16B

Species D: Figures 17A-17B

Species E: Figures 18A-19B

Species F: Figures 20A-20C

Species G: Figures 21A-22

Species H: Figures 23A-23B

Species I: Figures 24A-24B

Species J: Figures 25A-25B

Species K: Figures 26A-26B

Species L: Figures 27A-28

Species M: Figures 29A-29C

Species N: Figures 30A-31

Species O: Figures 32A-34B

Species P: Figures 35A-37

If Group III is elected, applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species,

including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

4. The claims are deemed to correspond to the species listed above in the following manner:

Species A: Claims 18, 19, 21, 30

Species B: Claims 9, 18, 19, 21, 30, 42, 44

Species C: Claims 9, 18, 19, 21, 30, 35

Species D: Claims 9, 18, 19, 21, 34, 42, 44

Species E: Claims 15, 16, 18, 19, 20, 22, 30, 38

Species F: Claims 9, 15, 16, 18, 19, 20, 30, 31, 38

Species G: Claims 12, 15-20, 30, 38

Species H: Claims 12, 15, 16, 18-20, 30, 38, 43

Species I: Claims 9, 18, 19, 21, 30, 32, 33

Species J: Claims 9, 18, 19, 22, 30, 36, 42, 44

Species K: Claims 9, 18, 19, 21, 32, 39, 42, 44

Species L: Claims 12, 15, 16, 18-20, 30, 38

Species M: Claims 9, 21, 23, 30

Species N: Claims 15, 16, 18-20, 30, 32, 33, 38, 46-50

Species O: Claims 15, 16, 18-20, 30, 33, 37, 38, 45

Species P: Claims 11, 15, 18, 19, 40, 42, 44

The following claim(s) are generic: 7, 8, 10, 13-15, 24- 29, 41 and 53- 57.

5. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

The species recite mutually exclusive limitations. Furthermore, the existence of an anticipatory reference demonstrating that one or more generic claims lack novelty establishes that the species do not relate to a single general inventive concept. As set forth in MPEP 1850;

The expression "special technical feature" is defined in PCT Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art...Whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature", should be considered with respect to novelty and inventive step. For example, documents discovered in the international search as well as Elsherif et al. (US Patent No. 5,564,124, col. 3, L 19-30, 50-61; col. 4, L 10-16, 32-35; Figs. 1-3 & 4) show that there is a presumption of lack of novelty or inventive step in a main claim, so that there may be no technical relationship left over the prior art among the claimed inventions involving one or more of the same or corresponding special technical features, leaving two or more dependent claims without a single general inventive concept.

6. A telephone call was made to attorney Arthur Schaier on April 29, 2009 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the

requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUSTIN LOFFREDO whose telephone number is (571) 270-7114. The examiner can normally be reached on M - F 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler & Frantz Jules can be reached on (571) 272-4834 & (571) 272-6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Cheryl J. Tyler/  
Supervisory Patent Examiner, Art Unit 3744

/Justin Loffredo/  
April 29, 2009